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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/070,870 | 11/14/2002 | Colin Henry Hamilton | DUMME18.001APC | 2920 |
| 20995 | 7590 | 05/03/2005 | EXAMINER | |
| KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 | | | PICKETT, JOHN G | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3728 | | |

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/070,870 | HAMILTON ET AL. | |
| | Examiner Gregory Pickett | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 November 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's Amendment submitted 10 February 2005. Claims 1-15 are pending in the application. Claims 12-15 are new.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

3. In light of the applicant's amendment, the objection to the drawings is hereby withdrawn.

Claim Rejections - 35 USC § 102

4. In light of the applicant's amendment, the rejection of claims 1, 3, 4, 5, and 11 under 35 U.S.C. 102(b) is hereby withdrawn.

Claim Rejections - 35 USC § 103

5. In light of the applicant's amendment, the rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Beguhn in view of Weaver, Jr. is hereby withdrawn.
6. Claims 1, 3-5, and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockburn (US 6,041,930) in view of Coggswell (US 5,529,188).

Regarding claims 1, 8, and 11, Cockburn discloses a sachet (Figures 1-4) comprising a first layer (semi-rigid member) 11 with a first aperture region (weakened region) 15, and a tray portion (reservoir means) 14 formed by a second layer (first flexible film layer) 13 overlaid by tray (second flexible film layer) 12 and adapted to container flowable substance 19. The second layer 13 includes aperture region 16 and is sealed to semi-rigid member 11 over its entire area, including the aperture region. Cockburn is capable of resealing inasmuch as the applicant's invention and meets all limitations claimed by the applicant except for the aperture comprising a rupturable film component.

Cockburn forms aperture 16 by punching a hole in film 31 at station 24.

Coggswell discloses an aperture region (intersecting lines 30) formed on an inner seal from scored lines 30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the aperture of Cockburn by simply scoring the sheet (as taught by Coggswell) instead of completely punching through the film in order to provide a complete double seal over the compartment and improve the strength of the seal while maintaining the aperture feature.

As to claims 3 and 9, weakened region 15 of Cockburn is a score line.

As to claims 4 and 5, first layer 11 of Cockburn is sealed to second layer 13 over its entire area, including the aperture region and the seal remains intact after rupture (see Figure 3 of Cockburn).

As to claim 10, first flexible film 12 and second flexible film 13 of Cockburn are formed from separate film members 31 and 32, which are sealed in their peripheral regions by rollers 34 and 35.

As to claims 12 and 13, aperture 16 of Cockburn is a centrally located, annular aperture (see Figure 1 of Cockburn). Coggswell is used to merely score the aperture instead of punching all the way through.

As to claim 14, Cockburn-Coggswell is capable of functioning as claimed inasmuch as the applicant's invention performs said functions.

7. Claims 6, 7, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockburn-Coggswell as applied to claim 8 above, and further in view of Sengewald (US 4,884,694).

Regarding claim 6, Cockburn-Coggswell discloses a method for forming a sachet comprising injecting a flowable substance, placing an upper sheet assembly over the tray portions, and non-releasably sealing the peripheral portions (see Figure 5).

Cockburn-Coggswell lacks, or does not expressly disclose forming an array of indentations in a film layer.

Sengewald discloses forming an array of indentations in a film layer (see Figure 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the method of Cockburn-Coggswell with an indentation-forming step in order to enable the storage of a larger volume of material within the sachet.

As to claim 7, applicant does not argue that the use of batch mode processing to fill packages was common and well known in the packaging art and would have been obvious to use in the method of Cockburn-Coggswell-Sengewald in order to use the same equipment for different flowable substances.

As to claim 15, aperture 16 of Cockburn is a centrally formed, annular aperture (see Figure 1 of Cockburn). Coggswell teaches scoring the aperture instead of punching all the way through.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cockburn-Coggswell as applied to claim 1 above, and further in view of Weaver, Jr. (US 5,277,920; hereinafter Weaver).

Cockburn-Coggswell, as applied to claim 1 above, discloses the claimed invention except for the second upper film layer.

Weaver discloses a second upper film layer 58 over a rupturable sachet 12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sachet of Cockburn-Coggswell with a second upper film layer in order to prevent inadvertent rupture of the aperture region.

Response to Arguments

9. Applicant's arguments, see page 6, 3rd and 4th paragraphs, filed 10 February 2005, with respect to the rejection(s) of claim(s) 1, 2, 3, 4, 5, and 11 under 35 USC 102(b) and 103(a), have been fully considered and are persuasive. Therefore, the

rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cockburn in view of Coggswell (previously applied to claims 6-10).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GP
Greg Pickett
Examiner
29 April 2005

Mickey Yu
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Supervisory Patent Examiner
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